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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,292	03/25/2004	Tetsuji Kondo	Q80139	5510

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EXAMINER

GIMIE, MAHMOUD

ART UNIT PAPER NUMBER

3747

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/808,292	KONDO ET AL.	
	Examiner	Art Unit	
	Mahmoud Gimie	3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Franchitto (5,724,946).

Franchitto discloses a fuel injection device comprising a fuel distribution pipe and a fuel injection valve mounted on said fuel distribution pipe (10), wherein a band-shaped protrusion (12) extends in the radial direction from a flange portion of a connecting pipe member arranged on said fuel distribution pipe and further extends in parallel to the axis of said fuel injection valve (14, 214), said band-shaped protrusion is provided with a fitting hole (218), and said fuel injection valve is provided with a protrusion (232) that fits into said fitting hole (218), see figures 1-7.

With regard to claim 2, said band-shaped protrusion is provided with a protrusion protruding inward (22), and said fuel injection valve is provided with a hollow (32) into which said protrusion fitted, see figure 1.

With regard to claims 3 and 11, said fuel injection valve is provided with a snap spring (232) that is fitted into said fitting hole and extends in the axial direction of said fuel injection valve, see figures 7. It is anticipated that the diagonally oriented locking groove (318) cause the locking pin 232 to snap, thereby acting as a snap spring that is movable

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in a radial direction when mounting the fuel injection valve (14, 214) on said fuel distribution valve (10).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franchitto (5,724,946).

Franchitto discloses all the limitations as applied to claims 1-3 except for further optional changes in the shape of the band-shaped protrusion (12).

At the time the invention was made; it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the band-shaped protrusion (12) with a narrow portion, or a thin-walled portion because applicant has not disclosed that doing so provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, further, would have expected applicant's invention to perform equally well with the fuel rail and injector assembly as disclosed by Franchitto because it snap fastens together the fuel injector and the fuel rail injector cup, see abstract.

Response to Arguments

5. Applicant's arguments filed on 4/4/05 have been fully considered but they are not persuasive.

Applicant argues with respect to independent claim 1, that Franchitto does not teach or suggest at least, wherein a band-shaped protrusion extends in the radial direction from a flange portion of a connecting pipe member arranged on said fuel distribution pipe . . ." as recited in claim 1. That is, the Examiner alleges that the injector cup 12 corresponds to the claimed band-shaped protrusion; however, the injector cup 12 does not extend in a radial direction from a flange portion of a connecting pipe member arranged on a fuel distribution pipe. Yet further, the Examiner has not even established what component of Franchitto allegedly corresponds to the claimed flanged portion and connecting pipe member. Yet even further, the injector cup 12 is appropriately named because it is a cup-shaped component for receiving a mounting end of a field injector, however, the cup-shaped injector cup clearly does NOT satisfy the claimed band-shaped protrusion. Therefore, at least based on the foregoing, Applicants submits that independent claim 1 is patentably distinguishable over Franchitto. Further, applicant argues that independent claims 2 and 3 are patentable over Franchitto at least for the reasons similar to those set forth above with respect to claim 1.

These arguments are not persuasive because a band-shaped protrusion is interpreted as a ring-shaped protrusion, and a flange as an edge used to hold an object in place. In the present instance, it clear from the drawings that the protrusion or outward projection (12, 212) is band-shaped or ring-shaped that extends radially or moves or directed along the radius of the ring-shaped area with a turn or flange. With regard to applicant's argument that the examiner did not even establish the

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corresponding components to the claimed subject matter, the components as stated above were referred to with reference number (when available) similar to applicant's lack of numerical reference to the alleged flange component.

6. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahmoud Gimie whose telephone number is 571-272-4841. The examiner can normally be reached on Tuesday-Friday between 7 a.m. -3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 571-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MG

 4/18/05
MAHMOUD GIMIE
PRIMARY EXAMINER